**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

ColorQuick, L.L.C.,
 	
                    Plaintiff,
 	
        v.
 	
 Vistaprint Limited, and
 OfficeMax Incorporated,
 	
                    Defendants.
	Civil Action No. 6:09-cv-323-LED

**DECLARATION OF DAVID L. ZWANG IN SUPPORT OF
DEFENDANT VISTAPRINT'S OPPOSITIONS TO COLORQUICK, L.L.C.'S
MOTION FOR PARTIAL SUMMARY JUDGMENT OF VALIDITY;
MOTION TO STRIKE, IN PART, THE OPINIONS OF DAVID L. ZWANG ON
INVALIDITY; AND *DAUBERT* MOTION TO STRIKE PORTIONS OF THE
INVALIDITY OPINION OF DAVID L. ZWANG**

I, David L. Zwang, state as follows:

1.   I am the Principal of Zwang & Company, a strategic consulting firm in the premedia and print technology industry, and have been retained by Vistaprint Limited in this matter. I have personal knowledge of the facts set forth in this declaration and, if called upon, could testify truthfully and accurately thereto.

2.   In my role as a consultant for Vistaprint, I was asked to analyze the '149 patent in light of the prior art and to prepared a written report explaining my analysis and opinions. My report on the Invalidity of the '149 Patent ("Invalidity Report") was served on ColorQuick on December 10, 2010.

3.   Appendix A to my Invalidity Report included a current curriculum vitae, detailing my near 40 years' experience in the printing and graphics arts industry. A true and correct copy of Appendix A to my Invalidity Report is attached to this declaration as Exhibit 1.

4.   I have over 35 years of experience in the print industry, spanning the industry's transition from more traditional prepress and printing methods to increasingly automated systems relying on computer software.

5.   I have been working with computers since 1982, when as a small business owner I purchased a personal computer to streamline my business and production tasks.

6.   I began programming in 1982, when I used the Basic programming language to further automate certain processes.

7.   Over the next decade, I continued to develop my skills in Basic and Apple Basic by authoring other small automation tasks.

8.   In 1993 I took a course in AppleScript programming language in 1993 to support my role as an authorized Apple reseller, which allowed me to develop and sell software for Apple products.

9.   I have developed other production automation software, using Basic, Visual Basic and AppleScript.

10.   In 1995, I authored a software-based template system for the book publisher Bantam Doubleday Dell. The software automated portions of the company's publishing, aiding its transition to digital production.

11.   In the early 1990s, I created and taught a class on Postscript troubleshooting for Scitex, a graphic arts systems development and manufacturing company. The course introduced students to digital files commonly used in the prepress and print industries with a focus on the Postscript file type disclosed in the '149 patent. By the end of the course, the students were able to review, evaluate, and repair Postscript code, and to code their own Postscript files from scratch.

12.   More recently, my career has shifted toward system and process architecture. I continue to author software scripts occasionally, though I subcontract other developers to author software to allow me to focus on a broader range of production solutions.

13.   In the mid-2000s, I designed the architecture for a web-based publishing system for the U.S. Department of State. I also oversaw the team of programmers that coded this system. This system, like Vistaprint.com, allowed users to design documents like newsletters, business cards, and greeting cards.

14.   I confirmed the relationship between the Keane patent and the pre-critical date Vistaprint.com (particularly, the PAPICS system) in conversations with Sebastian Coursol.

15.   I discussed the functionality of Vistaprint.com and the operation of the various segments of Vistaprint.com Release 5.1 code with Sebastian Coursol. My prior coding experience allowed me to verify Coursol's explanations of how this website functioned.

16.   I understand that ColorQuick has requested that the Court grant it partial summary judgment on its claim of validity, based in part on its argument that the claimed method of the '149 patent was not publicly known based on Vistaprint.com, as of February 2001.

17.   As I indicated in my Invalidity Report, it is my opinion that a person of ordinary skill in the field of the '149 patent is someone with at least five years of experience as a pre-press technician or a bachelor's degree in computer science with coursework in graphic arts and printing.

18.   For my Invalidity Report, I was asked to compare the Vistaprint.com system as of February 2001 to the asserted claims of the '149 patent and offer an opinion as to whether Vistaprint.com practiced each claim limitation, as asserted by ColorQuick. I was not asked to offer an opinion as to the legal effect of Vistaprint.com meeting all such limitations or, in particular, the specific basis under § 102 by which Vistaprint.com anticipates the '149 patent.

19.   I concluded that Vistaprint.com, as of February 2001, practiced all steps of the '149 patent, based on ColorQuick's interpretation of the claim limitations in its infringement contentions.

20.   Claim 1 of '149 patent provides a method of preparing production data for a print job comprising the step of "(a) creating a still image proxy of the PDL image file." Vistaprint.com, as of February 26, 2001, enables one of ordinary skill to practice or carry out the claimed limitation without undue experimentation. One of ordinary skill would have understood

a PDL file uploaded to Vistaprint.com was not being displayed as a PDL file in the browser, *i.e.*, some conversion to a proxy image file must have occurred.

21.   Claim 1 of '149 patent further provides "(b) electronically manipulating an image display of the still image proxy and recording information about the manipulations." Vistaprint.com, as of February 26, 2001, enables one of ordinary skill to practice or carry out the claimed limitation without undue experimentation. The electronic manipulations of the image display of the proxy would have been apparent to one of ordinary skill because that individual would see the manipulations on their screen. One of ordinary skill would have further understood that information about the manipulations was being recorded on the Vistaprint.com back-end servers because publically available Javascript responsible for causing XML to be written could be viewed by users.

22.   Claim 1 of '149 patent further provides "(c) using the information about the manipulations to revise the PDL image file so as to match the PDL image file to the manipulations made to the image display of the still image proxy." Vistaprint.com, as of February 26, 2001, enables one of ordinary skill to practice or carry out the claimed limitation without undue experimentation. One of ordinary skill would have understood that revisions to a PDL image file were occurring on the Vistaprint.com back-end server because the print product delivered to the end user would have incorporated the user's manipulations.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed at Danbury, Connecticut, this 27th day of March, 2011.

_____
David L. Zwang

926579/HN

EXH. 1

David L. Zwang

Curriculum Vitæ

E M P L O Y M E N T

Zwang & Company, DANBURY, CT, *Principal* .... **1991 – Present**
Strategic business planning, analysis, and related services to companies in the vertical Publishing market worldwide. Experience includes an extensive background in Content Creation, Content Management, Premedia and many printing technologies, including; Offset, Flexo, and Gravure, and Digital. Additionally offers consulting services to manufacturers on product development and marketing in the field of publishing, with a specific emphasis on data driven design, prepress, print production, and color management.

Projects include global data management solutions; book, magazine and packaging publishing technologies and processes; remote production systems development; color management systems; and process collaboration systems. ***See Representative Projects document for additional detail.***

Colortec Graphic Production, Inc., SOUTH NORWALK, CT, *VP Operations*..**1988 – 1991**
Co-founded this "state of the art" electronic prepress facility, specializing in training, support, production and processing of "desktop" files. Through the use of computers, and trained personnel, we serviced the Pharmaceutical, Publishing, and Advertising community. In addition we did product development, and systems integration. We also developed and marketed TruMatch, a process color specifying system in addition to a number of software development projects.

Pro Color, Division of George Schmitt Inc., BROOKFIELD, CT, *General Manager*...............................**1982 – 1987**
After the sale of the original company to its new owner, I retained full responsibility for the entire operation. This included P&L, sales, admin., plant and technical management. Our primary markets were label and packaging products for companies in the Pharmaceutical, Liquor, Food Service, and Health and Beauty Aid industries. Some of my accomplishments included, redesigning of specialty packaging equipment and developing and implementing new printing processes, including "dry offset printing."

Pro Color Inc., DANBURY, CT, *Founder and President* .... **1977 – 1982**
Created "short run", high quality color printing business that serviced the Gallery and Museum community. The business was initially developed through the use of a Direct Mail sales and marketing effort. At the time of the sale of the business we had an income in excess of $3 million per year.

Universal Color Corp., SCHENECTADY, NY, *Plant Manager* ....**1975 – 1977**
Responsible for sales and production for the company. The company was primarily a trade Separation shop. We serviced the Tri-City area. Managed 3 salesman and 10 production workers.

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Daret Color Corp., DANBURY, CT, *Pre–Press Supervisor* .... **1972 – 1975**
Responsibilities included Dot etching, Retouching, and training color camera operators. Supervised 3 camera operators, and 4 image assemblers.

Vogue Wright Studios, NEW YORK, NY, *Photographer*.. **1969 – 1972**
Major Catalog photography studio. Shot "still life" product shots for Macys, J.C. Penney, Stop & Shop, etc.

O T H E R   I N D U S T R Y   A C T I V I T I E S

L E C T U R E S

Venues	Topics	Year
The School of Visual Arts	Electronic Reproduction	1989
Western Connecticut State University	Desktop Publishing	1989
Seybold Publishing Conferences	Assorted Industry Topics	1994 – 2004
Vue/Point	Annual Industry Update	1990 – 2007
PIA (Printing Industries of America)	Process Benchmarking	1995
IPA	New Publishing Tech.	1998
	Marketing in the GA	1999
	R&E Tech Conference	2000
	Team Consultant	2001 – 2004
GATF	Color Management Conf.	2001 – 2009
DDAP	Annual Conference	2002 – 2003
Print Media	Annual Conference	2003
PacPrint (Australia)	Industry Exposition	2005
I Jornada Nacional sobre flujos de trabajo PDF en Artes Graficas (Spain)		2007
Graphispag (Spain)	Annual Conference	2007
DRUPA (Germany)	Conference	2008

Board of Directors	GTX (GRAPHIC TECHNOLOGY EXCHANGE)	Australia
Chairman	Ghent Workgroup	International Association
Member	CGATS, ISO, CIP4	Standards Bodies

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OTHER INDUSTRY ACTIVITIES

SEMINARS AND COURSES

Clients and Venues	Topics
Scitex - U.S. & Europe	Process Color Reproduction
Scitex - U.S. & Europe	Service Bureau Management
Scitex - U.S. & Europe	PostScript Troubleshooting
Assoc. of Graphic Comm. – NY	Preflighting
Apple – CreoScitex	Color Management
Printing Industries	Total Immersion: Digital Printing

EDUCATION

Long Island University - Biology/Chemistry ....1968 – 1972

Assorted Industry Training:...Densitometry
Statistical Process Control
Total Quality Management
Communication
Labor Relations
Environmental Waste Handling
Others on Request

NON-INDUSTRY ACTIVITIES

Lake Waubeeka Association ....1982 – 2000
Board of Directors

Created a Lake Management program,
which has become a model for other
lakes in the state.

Managed private water company, including
Construction of new water treatment facility,
and all required monitoring and reporting.

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ARTICLES PUBLISHED

Date Published	Publication	Article
Summer 1989	Process	Visionary and PostScript
Summer 1992	Vue/Point – The Hard Copy	A Prepress Primer
Summer 1993	The Dotted Line	Picture Replacement Data Management Preflighting
Summer 1993	Vue/Point – The Hard Copy	A Prepress Primer
June 1994	Prepress Links	Networking Solutions Moving Digital Data
Summer 1994	Vue/Point – The Hard Copy	1994 Prepress Overview
October 1994	Prepress Links	The Hub of Productivity Server Based Workflows
January 1995	The DottedLine	Workflows and Formats The Value of Trapping
February 1995	Prepress Links	The Trapping Trap All about Digital Trapping
June 1995	Prepress Links	Let it RIP: Raster Image Processors
Summer 1995	Vue/Point – The Hard Copy	1995 Prepress Overview
Summer 1996	Vue/Point – The Hard Copy	1996 Prepress Overview
October 1996	American Printer	Proof of What? - Digital Color Proofing Options
Summer 1997	Vue/Point – The Hard Copy	The Year in Review
October 1997	Seybold Report on Publishing	Defining Print Workflow
January 1998	Prepress Bulletin	Prepress – The Future in The World of Publishing
March 1998	Seybold Report on Publishing	Production Workflow Focus on the Products
May 1988	American Printer	What in the world is XML?
June 1998	American Printer	In – RIP Solutions
Summer 1998	Vue/Point – The Hard Copy	Industry Overview

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October 1998	American Printer	Imposing Presence; Prepress Imposition
October 1998	Printing Impressions	Variable Data Printing
December 1998	American Printer	Industry trends for 1999
February 1999	American Printer	Variable data tools for Digital printing
June 1999	American Printer	Real World PDF
July 1999	American Printer	Media Independent workflows
August 1999	American Printer	What every CSR should know about Preflight
November 1999	American Printer	Strengthening the Infrastructure
November 1999	American Printer	E-Business for E-Print
November 1999	Graphic Design USA	The Changing Landscape of Print Buying
December 1999	American Printer	Good Investments – Forecast 2000
January 2000	American Printer	Managing Color in Real World
Spring 2000	Print on Demand Canada	Network Fundamentals
February 2000	American Printer	Look Ma, No Hands – Automating Workflows
March 2000	American Printer	File Format Bingo
June 2000	American Printer	The Web in your Workflow
June 2000	American Printer	Drupa Digital Workflows
October 20000	American Printer	Automating Workflows
December 2000	American Printer	Investing in 2001
February 2001	American Printer	Digital Workflows
March 2001	American Printer	PDF Plug in Roundup
April 2001	Seybold Report on Publishing	Harlequin's Comeback
June 2001	American Printer	Color Management Tools
August 2001	American Printer	Workflow and the Internet
October 2001	American Printer	That's what JDF is…
December 2001	American Printer	Investing in 2002

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January 2002 ....Seybold Bulletin ....PDF – Universal publishing format?

March 2002....................................American Printer ....Digital Workflows:
Meet the Content Creator

June 2002 ....American Printer............................PDF for Today and Tomorrow

September 2002 ....American Printer...Implementing
Color Management

2002 –2003 ....Seybold Report on Publishing....................................PDF Editor

2004 ....American Printer ....Workflow Automation (JDF)

November 2006...............................Folio Magazine ....PDF Workflows-
Color Management

February 2007 ....Seybold Report on Publishing ....InkJet Printing –
MEMS the word

March 2007.....................................Seybold Report on Publishing ....SWOP/GRACoL Summit

April 2009 ....What They Think ....Surviving a Recession

October 2009 ....The Magazine ....Digital Printing

Others on request.